

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE:	:	
	:	CASE NO.: 20-61065-PWB
THE KRYSTAL COMPANY, et al	:	
	:	CHAPTER 11
Debtors.	:	

**OBJECTION TO CURE AMOUNT**

Now comes Cirignano Limited Partnership #3, Lessor/Landlord (“Landlord”) in the above captioned mater, objecting to the cure amount assigned to the lease contract with The Krystal Company (the “Debtor”) for non- residential real property located at 1205 St. Augustine Road, Valdosta, Georgia, designated by Debtor as **Store VAL002**.

**Jurisdiction**

1. The Court has jurisdiction to consider this matter as a core proceeding under 28 U.S.C., Sections 157(b)(1) and 13334. Venue is proper pursuant to 28 U.S.C. Sections 1408 and 1409.
2. The undersigned has been admitted to appear in this matter *Pro Hac Vice* by order of this Court dated March2, 2020 [Doc. No. 222]

**Background Facts**

3. The Debtor entered into a lease with the Landlord dated February 21, 2013 (the “Lease”), as amended on January 11, 2016 (the “First Amendment”) and October 27, 2016 (the “Second Amendment”) and assigned to Landlord by an Assignment and Assumption Agreement dated November 24, 2015. The Lease, First Amendment, Second Amendment, and Assignment and Assumption Agreement are attached hereto at Exhibit “A”.

4. The Debtor filed its petition under Chapter 11 of the Bankruptcy Code, 11 U.S.C. Section 101, et seq. (the “Code”), on January 19, 2020
5. The Debtor filed a motion On February 12, 2020, seeking an authority to sell assets under Section 363 [Doc. No. 148].
6. 2. This Court issued an Order, dated March4, 2020, approving bidding procedures [Doc. No 227.
7. 3. The Debtor filed a *Notice To Cure Parties To Potentially Assumed Executory Contracts and Unexpired Leases*, dated April7, 2020 [Doc. No. 310] (the “Cure Notice”).
8. Under the Cure Notice the Debtor provided cure amounts for each lease including those related to Landlord and designated the corresponding lease as **Store VAL002**. The Debtor listed the cure amount owed to Landlord as \$12,994.02.

### **Objection**

9. Debtor/Tenant has undervalued the Landlord ‘s cure amount. Pursuant to Article 28 of the Lease, the Landlord is entitled to attorney fees and expenses incurred in any proceeding arising in connection with the Lease.
10. Additionally, attorneys’ fees and costs are recoverable under the Bankruptcy Code as compensation for actual pecuniary loss resulting from a default under the Lease. *See, In re Westworld Community Healthcare, Inc.*, 95 B.R. 730, 733 (Bankr., C.D. Cal 1989)
11. The Landlord has incurred legal fees in connection with the Debtor’s default under the lease and the proceedings in this Chapter 11 filing in the amount of \$7,424.58 as of the date of this filing. This amount consists of pre-bankruptcy attorney fees of Attorney Burcheri in the amount of \$825; Bankruptcy counsel fees for the under signed in the amount of \$4,679.58; and local bankruptcy counsel fees the Stark Law Firm in the amount of \$1,920. Copies of billed

invoices are attached hereto at exhibit "B" {excluding those amounts attributed to April, 2020 for bankruptcy counsel which have not yet been invoiced}.

12. Accordingly, the Cure amount for the Lease regarding Store VAL002 should be amended to **\$20,418.60.**

WHEREFORE, the Landlord respectfully requests that the Court find that the full cure amount owed to the Landlord, as of the date of this submission, for amounts due under the Lease designated as VAL 002 to be \$20,418.60 and that Debtor be directed to so designate this amount as the cure amount due upon any assumption and assignment of the Lease, together with such other and further relief as this Court deems just and proper,

Dated: Garden City, New York  
April 27, 2020

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